

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003):  
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO MEN'S AND BOYS'  
SHIRTS OF CERTAIN FABRICS FROM SUB-SAHARAN AFRICAN COUNTRIES**

Investigation No. 332-450-005

July 2003



# Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-450-005

Products	Men's and Boys' Shirts of Certain Fabrics
Requesting Parties	Consolidated Fabrics Ltd., Socota Textile Mills Ltd., New Island Clothing Ltd., and Aquarelle Clothing Ltd., of Mauritius, and Jaysix USA, Inc. (U.S. importer)
Date of Commission Report: USTR Public	July 14, 2003 July 2003
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### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JULY 11, 2003. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to U.S. imports of men's and boys' shirts made in eligible sub-Saharan African countries from certain fabrics, regardless of the source of the fabrics, could have some adverse effect on the U.S. yarn sector and its workers, but would likely have little or no adverse effect on U.S. producers of fabrics or shirts, and their workers. The proposed preferential treatment would likely benefit U.S. firms producing shirts in eligible countries, and their U.S.-based workers, as well as U.S. consumers. The Commission's advice in this review remains unchanged from that provided in April 2002 in connection with the Commission's review of a petition covering the same fabrics for use in certain apparel articles other than men's and boys' shirts.<sup>1</sup>

### Background

On January 28, 2003, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-450, *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2003 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA, Title XXXI of the Trade Act of 2002).<sup>2</sup>

<sup>1</sup> U.S. International Trade Commission, "Certain Apparel of Fine-Yarn, High-Count Woven Fabrics from AGOA Countries," *Apparel Inputs in "Short Supply" (2002): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-436-003), Apr. 11, 2002. Garments named in this petition were certain trousers, shorts, skirts, dresses, handkerchiefs, dressing gowns, boxer shorts, and other apparel articles.

<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 4, 2003 (68 F.R. 5651) and its website at [www.usitc.gov/332s/shortsup/shortsupintro.htm](http://www.usitc.gov/332s/shortsup/shortsupintro.htm).

The Commission's advice in this report concerns a petition received by CITA on June 2, 2003, alleging that certain fabrics for use in men's and boys' shirts cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for shirts made in eligible AGOA beneficiary countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>3</sup>

### **Brief discussion of products**

The fabrics named in the petition are classified in the Harmonized Tariff Schedule of the United States (HTS) under numerous provisions, depending on such factors as the fiber in chief weight, whether the fabric is finished or unfinished, and fabric weight.<sup>4</sup> The fabrics are woven shirting fabrics made of "fine count" cotton or manmade-fiber yarns and are used in the production of "better" shirts for men (and boys). Most of the subject fabrics have an average yarn number exceeding 135 metric, which is equal to 80s yarn, based on the English cotton count used by the U.S. textile industry (the higher the number, the finer the fiber). The fabrics are made in different weave patterns, such as plain weave and oxford construction. Shirts made from the subject fabrics are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are subject to 2003 normal-trade-relations duty rates of 19.8 percent ad valorem (shirts of cotton) or 29.3 cents per kilogram plus 26.1 percent ad valorem (shirts of manmade fibers).<sup>5</sup>

According to the petition, if CITA determines that the subject fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and designates the shirts as eligible for duty-free and quota-free treatment under the AGOA commercial availability provision,<sup>6</sup> the petitioners intend to weave the fabrics, and cut and sew the fabrics into shirts, in Mauritius.<sup>7</sup> The petition also states that the petitioners intend to use "third-country" (e.g., Asian) yarns in the production of the fabrics, claiming that the "petitioners have been unable to locate a source in either any AGOA beneficiary country or the United States for the yarns."

The AGOA already authorizes duty-free and quota-free treatment for men's shirts made in eligible AGOA countries from the subject fabrics, regardless of the source of the fabrics—that is, provided that the fabrics are not made in the United States or an eligible AGOA country (as noted above, the petitioners intend to make the fabrics in Mauritius, a beneficiary country). Specifically, section 112(b)(5)(A) of the AGOA allows preferential treatment for apparel made in beneficiary countries from certain fabrics or yarns that are not formed in the United States or a beneficiary sub-Saharan African country, to the extent that apparel of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the North American Free Trade Agreement (NAFTA). Under Annex 401 of the NAFTA, men's shirts made from the subject fabrics are eligible for NAFTA preferences as long as the fabrics are "cut and assembled" in NAFTA countries, without regard to the source of the

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<sup>3</sup> In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. He authorized CITA and USTR to submit the required report to the Congress.

<sup>4</sup> The fabrics are classified in HTS subheadings 5208.21, 5208.22, 5208.29, 5208.31, 5208.32, 5208.39, 5208.41, 5208.42, 5208.49, 5208.51, 5208.52, 5208.59, 5210.21, 5210.31, 5407.81, 5407.82, 5407.83, 5513.11, and 5513.21.

<sup>5</sup> The ad valorem equivalent of the compound duty rate for the manmade-fiber shirts is 28.1 percent, based on 2002 trade.

<sup>6</sup> In connection with two separate petitions filed under section 112(b)(5)(B) of the AGOA, CITA determined that the subject fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and designated certain apparel articles as eligible for preferential treatment under the AGOA commercial availability provision. The articles included such items as blouses, nightwear, pants, skirts, dresses, dressing gowns, boxer shorts, and handkerchiefs.

<sup>7</sup> The petitioners are Mauritius-based fabric weavers (Consolidated and Socota) and shirt producers (New Island and Aquarelle), and a U.S. shirt importer (Jaysix).

fabrics.<sup>8</sup> The petition under consideration in this Commission review was filed under section 112(b)(5)(B) of the AGOA, which authorizes the President, on request of an interested party, to proclaim preferential treatment for apparel made in beneficiary countries from additional fabrics or yarns, if the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner.

### **Brief discussion of affected U.S. industries, workers, and consumers**

Dan River Inc., Danville, VA, is believed to be the only domestic producer of fabrics similar to those named in the petition.<sup>9</sup> The firm is vertically integrated--it spins fibers into yarn, weaves the yarn into fabric, and dyes or otherwise finishes these materials at different stages of production. The firm currently weaves \*\*\*.

Buhler Quality Yarns Corp., Jefferson, GA, is the only known U.S. mill that currently makes (spins) fine count yarns for use in fabrics of a type named in the petition.<sup>10</sup> According to Buhler's Internet website, the firm employs 120 workers. Buhler stated that cotton yarns of 135 metric or higher account for \*\*\* percent of its total yarn production. Buhler said it currently sells two-ply cotton yarns of 135 metric to the two Mauritius-based petitioners that weave fabrics (Consolidated and Socota).<sup>11</sup> Buhler said it also sells fine-count cotton yarns to \*\*\*. Two other U.S. yarn spinners (Parkdale Mills, Gastonia, NC, and Ramtex, Inc., Ramseur, NC) said they each have the capacity to make the fine yarns, but are not currently doing so.<sup>12</sup>

Oxford Industries, Atlanta, GA, a major U.S. producer of men's and women's apparel, including men's dress shirts of the subject fabrics, \*\*\*<sup>13</sup> \*\*\*.

### **Views of interested parties**

The Commission received written submissions in opposition to the proposed preferential treatment from Buhler Quality Yarns Corp. and the American Yarn Spinners Association, Inc. (AYSA). Buhler said it is "perfectly capable of making the yarns in question in \*\*\* Georgia facility and that it presently sells two-ply cotton yarn of 135 metric number to both of the petitioners that are Mauritius based fabric weavers." Buhler indicated that it has never been unable to fill the Mauritius firms' orders and that it can accept orders for more yarn. Buhler stated that it has evidence on its website of supplying yarns finer than 135 metric and that it regularly supplies yarns in even finer counts to a U.S. customer. The submission from the AYSA, which represents 75 producers of spun yarn, stated that Buhler, as well as Parkdale Mills, Gastonia, NC, and Ramtex, Inc., Ramseur, NC, are willing and able to spin fine count yarns for use in the production of the subject fabrics.

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<sup>8</sup> The NAFTA exemption for the men's shirts (HTS heading 6205) appears in General Note 12(t)62.29 of the HTS. The Trade and Development Act of 2000 includes this exemption in section 112(b)(5)(A) of the AGOA.

<sup>9</sup> Information in the paragraph is from Jim Martin, President, Apparel Fabrics Division, Dan River Inc., telephone interview by Commission staff, July 7, 2003.

<sup>10</sup> Except as noted, information in the paragraph is from Werner Bieri, President & CEO, Buhler Quality Yarns Corp., telephone interview by Commission staff, June 30, 2003, and written submission to the Commission, June 20, 2003.

<sup>11</sup> According to official U.S. trade data, U.S. exports of all types of cotton yarns to Mauritius totaled almost \$60,000 in 2002 and \$128,000 in January-April 2003; however, none of the reported exports comprised cotton yarns of 135 metric or higher. Such yarns are a subset of Schedule B heading 5206.35, which provides for combed cotton single yarn, containing less than 85 percent by weight of cotton, and exceeding 80 metric per single yarn.

<sup>12</sup> Dan Nation, Parkdale Mills, telephone interview by Commission staff, June 27, 2003, and Bill Beaver, Vice President, Ramtex Inc., voice mail message to Commission staff, June 27, 2003.

<sup>13</sup> Information in the paragraph is from Thomas C. Chubb III, Vice President-Law and International Trade, and General Counsel, Oxford Industries, Inc., Atlanta, GA, telephone interview by Commission staff, July 8, 2003.

## Probable economic effect advice<sup>14</sup>

The current petition covers the same fabrics, but different apparel applications, as the petition for which the Commission provided advice to USTR on April 11, 2002.<sup>15</sup> Because the Commission is unaware of any changes in the U.S. textile industry's capability to supply the subject fabrics since that review, the Commission's probable economic effect advice remains unchanged from its earlier review. The Commission's analysis shows that granting duty-free and quota-free treatment to U.S. imports of men's and boys' shirts made in eligible AGOA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, could have some adverse effect on the U.S. yarn sector, and its workers. The only known U.S. producer of fine-count cotton yarns, Buhler Quality Yarns Corp., states that it currently exports such yarns to Mauritius. If CITA determines that the subject fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and designates the shirts as eligible for preferential treatment under the AGOA commercial availability provision, the petition states that the petitioners intend to use "third-country" (e.g., Asian) yarns in the production of the fabrics, claiming that the "petitioners have been unable to locate a source in either any AGOA beneficiary country or the United States for the yarns." However, official U.S. statistics show that there were no U.S. exports of the fine-count cotton yarns to Mauritius in either 2002 or January-April 2003.

The proposed preferential treatment would likely have little or no adverse effect on Dan River Inc., the only known U.S. producer of fabrics similar to those named in the petition, or its workers. \*\*\*.

The U.S. market for men's and boys' shirts made from the subject fabrics is believed to be relatively small and supplied largely by imports. The expected increase in U.S. imports of men's shirts made in eligible AGOA countries from the subject fabrics would likely displace imports from countries whose shipments are subject to U.S. tariffs. The proposed preferential treatment would likely benefit U.S. firms making shirts in eligible AGOA countries, and their U.S.-based workers.

U.S. consumers would likely benefit from the proposed preferential treatment for men's shirts made in eligible AGOA countries from the subject fabrics, because the duty and other cost savings resulting from the proposed action would likely be passed on to consumers in today's highly competitive apparel retail market.

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<sup>14</sup> The advice below is based on information currently available to the Commission.

<sup>15</sup> U.S. International Trade Commission, "Certain Apparel of Fine-Yarn, High-Count Woven Fabrics from AGOA Countries," *Apparel Inputs in "Short Supply" (2002): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-436-003), Apr. 11, 2002. Garments named in this petition were certain trousers, shorts, skirts, dresses, handkerchiefs, dressing gowns, boxer shorts, and other apparel articles.